IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5068 OF 2007

Shri Pramod Balkrishna Mahadik .... Petitioner
(Ori. Plaintiff)

Vs.

Shri Surendrakumar Surana .... Respondent
(Ori. Defendant)

Mr. R.A. Thorat & Mr. P.J. Thorat for Petitioner.
Mr. Kaushik Kothari for the Respondent.

CORAM : S.A. BOBDE, J.
DATE : 18TH JULY, 2007

P.C.

1) Rule, returnable forthwith.

Mr. Kothari waives service for the Respondent. By consent taken up for final hearing.

2) The Petitioner seeks a declaration that he is the monthly tenant of the Respondent in respect of the suit premises and for an injunction restraining the Respondent from entering into and dispossessing him from the suit premises, without due process of law. The Appellate Court has declined that injunction.

3) According to the learned Counsel for the Respondent, the Petitioner is not in possession of

suit premises. However, having regard to certain documents on record namely the Rent Receipt and the writings produced by the learned Counsel for the Petitioner, it would be appropriate in the interest of justice to grant injunction as prayed for. Obviously the injunction would not prejudice the Respondent in any way and there is no reason to dispossess the Petitioner. On the other hand, if the Petitioner is in possession, he is certainly entitled for protection from dispossession except in accordance with law. This injunction shall remain in force pending the suit. The Trial Court shall decide the suit independently without being influenced by the observations made in the injunction order.

4) Rule is made absolute in the above terms.

(S.A. BOBDE, J.)